

# Mitigation of Money Laundering Risk in Malaysia: A Maqasid Al-Shari‘Ah Perspective

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## ABSTRACT

This study aimed to explore the role of *maqasid al-Shari‘ah* towards mitigating money laundering risk in Malaysia. This study adopted a qualitative approach to fulfil its objective. The data were collected through document analysis and semi-structured interviews with the experts. This study revealed that money laundering goes against the principles of Shariah as it leads to consuming other’s property illegally and disregarding justice and welfare among the people. *Maqasid al-Shari‘ah* plays a vital role in preventing money laundering through several ways, which includes the condition of (1) circulation (*rawaj*) of wealth among people, (2) transparency (*wuduh*) in transaction, and (3) justice (*‘adl*) among transacting parties. To mitigate money laundering, *maqasid al-Shariah* suggests the reporting of suspicious transactions and proper documentation to be practised among bankers. The outcome of this study may help motivate bankers and their clients to be more aware of the role of *maqasid al-Shari‘ah* in combating money laundering. Moreover, it may help policymakers and financial institutions look for alternative ways to mitigate money laundering risks.

**Keywords** Money laundering, Money laundering risk, *maqasid al-Shari‘ah*, Malaysia

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## ARTICLE INFO

### Article History:

Received: 30 October 2024

Accepted: 29 December 2024

Available online: 31 December 2024

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## INTRODUCTION

In modernised financial systems, money laundering risk has become a burning issue that several international organisations have recognised. Criminals would attempt to commit money laundering in banking institutions through banking products and services. Realising the emerging danger coming from this risk, Hasan et al. (2017) emphasised that money laundering risk has become a critical issue for both Islamic and conventional financial institutions. As such, banking institutions have been advised to provide stronger framework development for human wealth protection. One of the suggestions that was proposed to financial institutions was that bankers must provide a review of customer risk on financial offences, which includes money laundering (Pol, 2020).

However, due to the complex nature of crime and inflexibility of the rulings related to mitigating money laundering risks, financial institutions are often faced with complexity to trade with clients (Nasir, 2019). In a recent report, penalties of US\$10.4bn were imposed on many banking institutions worldwide due to their incapability to conduct due diligence on clients, in adherence to anti-money laundering (AML) laws (Finergo, 2020; Kyckr, 2021). Similarly in Malaysia, there are various issues concerning money laundering risk that have been raised by financial institutions. In 2014, Bank Negara Malaysia (BNM) described a compound amounting to RM4.37 million against 11 financial institutions due to non-compliance with Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) policies under Anti-Money Laundering Act (AMLA) and Financial Service Act (FSA) (BNM, 2014).

Previous studies in the field of money laundering focused on conventional legal and regulatory frameworks, often overlooking the rich ethical underpinnings provided by Islamic *Shari'ah*. Conventional approaches tend to centre on disciplinary measures, occasionally neglecting the broader societal implications and ethical considerations. While existing studies acknowledge the importance of ethical conduct in financial systems, a distinct gap remains in the integration of *Maqasid al-Shari'ah*, the higher objectives of Islamic law, into the discourse on money laundering mitigation. Our study addressed this gap by providing a comprehensive framework that went beyond regulatory compliance to encompass the moral imperatives outlined in Islamic teachings.

Therefore, this study aimed to explore money laundering risk in Malaysia from the perspective of *maqāsid al-Shari'ah*. The *maqasid al-Shari'ah* in banking indicates the aims and meanings that the Shariah objectives would acquire from its laws and verdicts related to banking activities as well as dealings (Laldin & Furqani, 2013). *Maqasid al-Shari'ah* has been playing a significant role in influencing the legitimacy of Islamic finances, where it develops the relationships between people's behaviour and its effect on social welfare (Bedoui & Mansour, 2015). The understanding of *maqasid al-Shari'ah* concerning banking operations would lead to the direction of Shariah boards in Islamic banks and Fiqh boards in international institutions (Malik et al., 2021). As such, *maqasid al-Shari'ah* became a principle and point of reference when it comes to Islamic banking products and services (Qoyum, 2018).

## LITERATURE REVIEW

### ***Maqasid al-Shari'ah***

The word *maqasid* is a plural from the Arabic word *maqasid*, which means objective, purpose, goal, or willingness ends (Auda, 2008). At the same time, *Shariah* means Islamic law. Several scholars have defined *maqasid al-Shari'ah* in different perspectives. Imam al-Ghazzali defines *maqasid al-Shari'ah* as protecting people's wealth, as well as establishing human well-being, which is connected with the safeguarding (*hifz*) of the religion (*din*), self (*nafs*), intellect (*aql*), posterity (*nasl*), and wealth (*mal*) (Al Mubarak & Osmani, 2012; Monawer et al., 2021). Kamali (2012) defined *maqasid al-Shari'ah* to be explicitly essential, but somewhat ignored in the Shariah discipline. Ibn' Āshūr (2001) implied that the goal of *maqasid* grows more towards the wisdom of legislation, which is followed by Shari'ah regulations. The principles of *maqasid al-Shari'ah* basically concentrated on both the public and society, and the law was constructed to preserve those facilities, also to benefit the development and level of progress with respect towards well-being. It is well known that al-Qardawi brought the discussion of *maqasid al-Shari'ah* in this contemporary world and introduced an understanding of the objectives of Islamic law (Qardawi, 2006). Among the classical scholars, Al-Shatibi explained the *maqasid al-Shari'ah*, and he developed this subject as an independent subject of Islamic jurisprudence (Ishak et al., 2020).

In relation to finance, one of the fundamental goals of *Shari'ah* is the preservation of wealth (al-Qaradawi, 2008). Dusuki (2011) states that in the economic substances of Islamic financial institutions, all the legal documentation and forms should be outlined based on *maqasid al-Shari'ah*.

Laldin and Furqani (2013) found multiple excerpts from the Qur'an and Sunnah which have repeatedly mentioned banking activities. This shows that the *Shari'ah* has particular objectives in the legislation of banking laws and rules. Various studies have been found on *maqasid al-Shari'ah*. Ibn 'Āshūr (2001), is the first to explicitly examine the goals relating to particular dimensions of life and specific disciplines of knowledge. In the perspective of *maqasid* pertaining to banking transactions, Ibn 'Āshūr indicated five ends of banking dealings that make to economic well-being: movement, transparency, preservation, robustness, and equality (Ibn 'Āshūr, 2001; El-Mesawi, 2006). Al-Raysūni (2013) demonstrated that *maqasid al-Shari'ah* ensures social well-being, including the development of Islamic banking finance and economics. Additionally, Kamali (2017) describes the ultimate goals of *maqasid* is to establish Shariah rules in general, as well as to understand, materialise, and practice these rules at any time and place.

## **Mechanics of Money Laundering**

Most cases of money laundering were initiated by disguising illegal activities, proceeded with an enactment of illicit funds, and concluded with the utilisation of that legalised funds (Gupta, Dwivedi & Shah, 2023). The definition of money laundering has diversified throughout the years given by many researchers. For instance, money laundering refers to a technique of income acquisition that is basically gained from criminals' businesses, and its objective is to hide the illicit origin (Simser, 2013; Leite et al., 2019; Teichmann, 2020). Schneider and Windischbauer (2008) defined money laundering as a method of converting illicit funds into legal funds. Money laundering is a crime which is planned by criminals, engaged with a target towards ill-gotten gains obtained from illegal activities (Ramada, 2022).

There are two ways that motivate money launderers to clean money: first is to avoid detection of illegal activities; and second is to protect commercial assets and properties from seizure and relinquishment by law authorisation specialists (Sarigul, 2013). To conceal illicit money, money

launderers need to change the money from illegal sources to make it look authentic.

To transform illicit money into legal money, there are three main stages: placement, layering and integration (Calafos & Dimitoglou, 2022; Sultan & Mohamed, 2024). Placement is the first stage of money laundering, and it implies unlawful gains which are brought into the financial system. This illicit money may derive from dealing drugs, deposits, smuggling of unlawful arms sale, kidnapping for ransom, corruption, information fraud schemes and human trafficking. This stage is considered the most important for the money launderers and the authorities. This is because it is the most vulnerable phase for financial institutions. Buchanan (2004) indicated that this is the weakest stage for money launderers because concealing illicit money is very hard in this phase, especially when it involves a large sum of money. For banking authorities, the phase of placement is when unlawful cash is the closest to money launderers, thus, it is the most appropriate chance to recognise and incriminate money launderers.

Layering is the second stage of money laundering. It involves the circulation or movement of unlawful cash into another form or place with an end goal to hide the actual ownerships of the assets. This stage further hides the proceeds of illegal activity by buying tourist's checks, shares, promises, and trade for cash requests and letters of credit; making telegraphic transfers to on-shore and off-shore jurisdictions; or purchasing valuable assets, such as art, jewellery or other big-ticket items (Sultan & Mohamed, 2024; Mooij, 2023; Dhillon et al., 2013).

The final stage is integration which refers to the phase when unlawful money is integrated back into the lawful economy and banking systems as clean money (Sultan & Mohamed, 2024; Gupta, Dwivedi & Shah, 2023). Generally, it includes the method of utilising a seemingly legal transaction to hide illegal progresses, allowing the laundered cash to be paid back to the criminals. The laundered cash is then integrated into the economy as common business assets via, for example, purchases of assets, the involvement of the perpetrator in lawful businesses, also banking transactions in various forms, such as false import (Buchanan, 2004). In this phase, the criminals' purpose is to make the unlawfully acquired assets intently look like legal assets (Sarigul, 2013). Hence, it is difficult to

separate between legitimate and illicit cash at this phase (Irwin, Choo, & Liu, 2012). This cycle of making black money to show up as clean money might happen independently or concurrently.

Regardless of which definition is being followed, a reciprocal understanding obtained from these researchers was that money laundering is a major offence, which is a compulsory pre-requisite for global battles against money laundering.

### **Money Laundering Risk**

Money laundering risk has a significant influence on individuals, commercial sectors, as well as the domestic and international financial systems. A recent report from United Nations (2018) showed that the estimated sum of money laundered in the United States amounts from US\$800 billion to US\$2 trillion (2%–5%) of worldwide gross domestic product every year. It becomes difficult to establish a whole amount of money laundered as most of the money was already streamlined with the commercial banking system as it completes the laundry process. In view of the fact that black money has gone through different emplacement, layering, and integration methods as an effort to disguise the actual origins of the capital and proceeded to be integrated with legal money, approximating the entire amount of money that has been laundered globally is challenging. Lowe (2017) suggested that finance experts have to assess consumer profiling to guarantee a highest level of customer due diligence (CDD) by recognising politically exposed persons within the bank's client database to protect money laundering and possible crimes of corruption. Today, it has been made compulsory for banks to practice CDD for all customers in terms of alleviating consumers' risk. However, the level of CDD development varies on consumer background risk level (FATF, 2019). The method of CDD needs financial experts that are able to establish clinical assessment for possible consumer assessment as recommended by Mohd-Sanusi et al. (2021).

### **Detection of Money Laundering**

In 1970, the first known money laundering activity was initiated (Soltani et al., 2016). Since then, the issue of money laundering has

been affecting small financing in various countries. For instance, the United Nations Office on Drugs and Crime (UNODC, 2011) reported that the aggregate amount of cash laundered within the banking system is comparable to around 2.7 percent of worldwide gross domestic products (GDP), or US\$1.6 trillion in 2009. Some investors decided to move their capital to safer countries due to the money laundering threats (Sandler & Enders, 2008). The impact of money laundering does not only affect financial institutions, but also towards the tourism industry and international business (Nitsch & Schumacher, 2004; Sandler & Enders, 2008; Jullum et al., 2020). As the negative impact of money laundering poses a severe threat to communities as well as global economic sectors, therefore it becomes crucial to detect as many illicit transactions as possible.

Currently, the Financial Action Task Force (FATF) is the agency that constructs the criteria for legislation, monitoring, and rapid measures in order to fight money laundering, financial terrorism and different types of threats to the unity of the world-wide financial system. They also decide on recuperative actions to ease local bank privacy terms as economic inspections become more needed. FATF is assisted with the development of computers and software, which resulted in artificial intelligence systems being used to overcome the deficiencies in the conventional ways to detect money laundering (Watkins et al., 2010). Zhang and Trubey (2018) used the U.S. banking institutions data to regulate training algorithms such as decision procedure, random forest, assistance transmitter machine, and artificial intelligence for detecting money laundering forms in a class of signals. Based on ten explanatory variables, they were able to establish models on transaction activities within a certain period of time. Martínez-Sánchez and Cruz-García (2020) applied historical data and tree regression to assume the threat of money laundering, where they had collected consumers data as a degree of threat. In a more recent work, Rocha Salazar et al. (2021) applied neural networks with an abnormality indicator to detect money laundering. There are still some techniques that have yet to be explored when it comes to detecting specific money laundering tactics.

## **Money Laundering Risk in Malaysia**

With the worldwide development of money laundering, this activity has turned into a cross-border issue with multi-collapsed difficulty, which

constantly requires countries to ban money laundering based on the Vienna Convention and Palermo Convention (FATF, 2012). According to the Basel AML Index in 2019, Malaysia was positioned 62 out of 125 nations with a score of 5.28 and in 2018, while in 2019 the country had ranked 57 out of 129 nations (Basel Institute of Governance, 2019). The score decreased by 0.28 in contrast to the previous year, which shows lower money laundering risk in Malaysia. This data demonstrated that Malaysia has been making progress in order to combat money laundering risks. As previously mentioned, money laundering generally comprises two crimes collectively: attempting to legitimate the proceeds by taking advantage of banking organisations and perpetrating the crimes from money laundering. Money laundering risk in Malaysia has been extended to involve vast centre crimes, where its Anti-Money Laundering Act (AMLA) has recorded 365 of such crimes since its enactment. Table 1 highlights the most remarkable violations with various degrees of threats that clarify money laundering.

**Table 1: Money Laundering Threat Level of Different Crimes**

Types of crime	Degree of threat	Types of crime	Degree of threat
Fraud	High	Forging of currency	Medium
Corruption		Natural crimes	
Illegal drug dealing		Unlawful remittance	
Planned crimes		Killing	
Illicit trade		Kidnapping	
Copying and banditry products	Medium High	Illegal transaction and market manipulation	Low
Stealing and robbery		Blackmail	
Human being trafficking		Illegal business of stolen products	
Sexual abuse		Illegal arms trading	
Evade taxation		Sea burglary	
Violence and funding of terrorism			

Note: the source of information is from Bank Negara Malaysia (BNM,2018)

Sathye and Islam (2011) indicated that in various financial institutions, money laundering risk can be categorised into two groups: regulatory risk and business risk, with their sub-categorises being inherent and residual risk. Regulatory risk is related to recusancy with linked arrangements of AMLA



which incorporate client recognition evidence, exposure, record keeping and completion of anti-money laundering (AML) programs. Business risk means vulnerability and risk of loss as well as any occasion that causes a risk because of unexpected conditions which could cause financial institutions to fail. Inherent business risk comes from the consumers searching for financial services, the items proposed to the clients, the delivery process of the items and the geographical area from which the client comes from or the area wherein the offering of products and range of transactions happen. Residual risk implies the challenge that might yet occur in spite of the strong money laundering risk management structure. However, some risks that are raised from money laundering activities are not fundamentally or inherently taken by the environment of finance systems. They unintentionally immersed into the finance institutions because of poor management and non-compliance with AML with strategies (Naheem, 2015; Pramod et al., 2012), as well as the inefficiency of banking administrators to clarify the risk presented by the clients (Favarel-Garrigues et al., 2007). Financial institutions are in danger if they intentionally allow money laundering risk into the institutions.

### ***Hifz al-Mal*, or Preservation of Wealth in Islam**

The universality of maqasid al-Shari'ah provides a comprehensive guideline and holistic worldview of Islam, which has a strategic connection with all areas of human life. Therefore, maqasid al-Shari'ah always advocates the protection of human wealth and preserves it in a lawful way that is approved by Islamic law (Qardawi, 1999).

*Hifz al-Māl*, or preservation of wealth is one of the core objectives of Islamic law (*Shari'ah*). Muslim scholars emphasise that the concept of *hifz al-Māl* goes beyond its literal interpretation. Not only does it protect resources, the concept also includes the motivation to produce, gather, preserve as well as spread the wealth in an equitable and fair way. There are several Islamic scholars who have defined the preservation of wealth (*Hifz al-Māl*). Al-Juwayni and Al-Ghazali refer to *Hifz al-Māl* as the method of public wealth protection from thieves, where punishment has to be implemented according to the Quran and Sunnah. Ibn Ashur (1991) defines *Hifz al-Māl* as “protecting the wealth of the community from being ruined and from shifting to the hands of others without compensation.” Islamic *Shari'ah* principles emphasise deeply on preserving one's wealth. Thus, it

has given certain limitations, for example possessions to be legitimately granted and particular punishments to be in place for disobeying others' rights. For instance, Allah has clearly explained about the punishment for theft. In Surah al- Maidah verse 38, Allah said, "*As for the thief, the male and the female, amputate their hands in recompense for what they committed as a deterrent [punishment] from Allah, and Allah is Exalted in Might and Wise.*" With regards to the preservation of wealth, Allah has stated in Surah al-Jumu'ah verse 10, "*And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed.*" Moreover, The Prophet (Peace and Blessings Be Upon Him) has also addressed, "*Let it be known that whoever becomes a custodian for the wealth of an orphan, it is upon him to trade the wealth so as to avoid the wealth to be reduced by the paying of Zakat.*" Based on this evidence from the holy Quran and Sunnah, it is undoubtedly that Muslims should be continuing the spending and growing of their wealth by contributing and participating in acceptable economic activities, such as being involved in legitimate and allowable business transactions. As such, a person is able to fulfil his/her family's needs without disobeying the rights of the other public.

To save other people's rights, the element that can ensure achieving the *maqasid al-Shari'ah* is good governance practices in Islamic financial institutions. It will ensure the sustainability of the Islamic banking system and will assist in safeguarding and developing people's well-being. As a result, good governance will help to protect the stakeholders' interests and facilitate effective monitoring to achieve the *hifzul mal* (preservation of wealth) with particular reference to *maqasid al-Shari'ah*. (Alhammadi, S,et al., 2020). By achieving *Shari'ah* governance, a vital stage for corporate culture, it has gained well-being in building corporate society (Alam et al.,2023).

### **Methods for the Preservation of the Wealth (*Hifz al-Mal*)**

Islamic *Shari'ah* or Islamic law has been searching for preservation of wealth through numerous mediums, including the developing and rising of properties, as well as diversifying various social connections and business activities. The responsibilities of Islamic *Shari'ah* is to protect peoples' assets and establish social well-being within the society. In this context,

several methods under *maqasid al-Shari'ah*, such as *rawaj al-amwal* (fair circulation of wealth), *'adl* (justice), *wuduh* (clarity), *thubut* (proof) and *tanmiyah* (growth) are related to money laundering. Islamic scholar Ibn Ashur indicated that these processes are fundamental to serve for the important legal purpose of acquisition. He stated that these processes can be effective to further discover instances of money laundering optimally by establishing the line of authority of funding transfer from one to another. Subsequently, these processes are discussed below:

Circulation of wealth (*rawaj*) is the first method of fighting against money laundering. One of its goals is to preserve assets. Cash might be decreased from the genuine owner in light of a given loan to the debtor. However, the debtor could utilise this cash either by doing business in the company, or the debtor may invest in other businesses within the industry. This is because the wealthy might run out of cash from his hands if he is unable to secure his financial system, as indicated by El- Mesawi (2020).

The next method is clarity (*Wuduh*), which refers to the accuracy of transaction between individuals. Transactions should be accurate, explicit and exact, as well as distant from any damages. Records of transactions should also be open to challenges and debates (Ibn Ashur, 1991). The process of *wuduh* has given a solid foundation to fight against money laundering. It has given the strong transparency in banking dealings, as it requires all types of banking transactions to be visible.

Another method is justice (*Adl*), which is connected with the need to have equal social structure in dealing with enacting of banking transactions. According to the Quran, *Adl* refers to the idea of truth, integrity, fairness, harmony, stability and simplicity. Therefore, the main objective of this process is to concentrate on the effective and legal ethic of the *Shari'ah* social development and individual performance.

Proof (*thubut*) is another process to combat money laundering, and it confirms the owner of capital which is chosen by its owners to transfer funds without precarious doubt. Ibn 'Ashur indicated that proof is crucial to employ in banking transactions to show that the wealth belongs to the owner, also to prevent further challenges (El- Mesawi 2020).

Lastly, growth (*tanmiyah*) and property development, which is also one of the major objectives of Islamic *Shari'ah*. In the end, preservation of wealth or *hifz al-mal* is an important objective of *Shari'ah* as stated by Imam Ghazali and Shatibi. Without asset improvement or development, the other four objectives of Shariah might not be steady enough to achieve strength. It has to be accessible to confirm common success (Al-Razi, 1997). The concept of *tanmiyah further* prescribes that money laundering is against the *Shari'ah* objective.

### **Shari'ah Restrictions on Money Laundering**

Islamic *Shari'ah* forbids financial crimes which are against its rules. In Islam, economic activities may be decreed as *ta'zir* offences, where appropriate judgments may be enforced to the perpetrator for committing the offence, regardless whether it is within the public or private interest. People who are directly and indirectly involved in financial crimes such as money laundering activities must be punished with recognition by Islamic *Shari'ah* board. In this regard, Allah says in *Surah al-Baqarah* verse 188: “*And do not eat up your property among yourselves unjustly and do not use it as bribe for the judges, with intent that you may eat up wrongfully and knowingly (even) a little of other people's property.*” The word unjustly in this verse refers to wealth or property that is acquired unlawfully, for example proceeds from robbery, dishonesty, trafficking, and fraud (Al Hilali & Khan, 1996). Therefore, money laundering is acknowledged as a major offence within the financial system and Islam does not acknowledge any assets which is derived from these sources.

## **RESEARCH METHODOLOGY**

The current study applied a qualitative research approach based on its pattern and structure. Qualitative techniques were applied in the current study to reach its purpose and goal, which was to mitigate money laundering risk from the perspectives of *maqasid al-Shari'ah*. Qualitative research could serve this purpose because the objective is exploratory, which seeks to find new information. A quantitative approach was deemed unsuitable as the variables related to this issue were unknown. Moreover, analysing this issue from a *maqasid al-Shari'ah* perspective requires analysing the

opinion of the scholars, which is subjective. The current study also followed three main methods in collecting data, namely data documentation from institutions, library research and interviews with experts and academicians. In the current study, interviews were conducted as the primary source to establish the technique on how experts and academics become involved in giving their opinions as well as recommendations regarding the issue of money laundering risk. In selecting informants, the current study followed a purposeful sampling method, through which rich data can be obtained to achieve the goal of the current study (Creswell & Poth, 2017; Patton, 2002). The practitioners and academics were selected based on their vast experience in this field. Academics who have been conducting research in this field were chosen based on a careful review of their research profile. Besides, industry practitioners directly involved in handling money laundering issues with several years of experience were selected. Additionally, all the practitioners were holding senior positions in their respective organisations.

In line with the objectives of this research, the informants were asked two sets of questions. First, the academics were asked about their opinion on whether money laundering goes against the principles of *maqasid al-Shari'ah* and the possible role of *maqasid al-Shari'ah* in mitigating money laundering risks. Secondly, the practitioners were asked about the procedure to combat money laundering, potential factors that lead to money laundering, and the competencies required by the officers to mitigate money laundering risks. Primarily, face-to-face interviews were conducted with the informants. However, a few interviews were conducted through writing due to their unavailability for a face-to-face interview.

To confirm confidentiality, both informants and their institutions were reported anonymously using symbolic code names, with no discrimination regarding their names, races, institutions, families, or positions. Informants are referred to as "MLI" (experts, academicians). Table 2 summarises the detailed information of the informants.

**Table 2: Details of Informants**

Abbreviation	Position	Organisation	Gender
MLI-1	HLL	X	Male
MLI-2	Research Fellow	UNIMAP	Male
MLI-3	Research Fellow	Accounting Research Institute	Female
MLI-4	Research Fellow	Accounting Research Institute	Male
MLI-5	Forensic Associate (AML)	Deloitte	Female
MLI-6	Associate Manager Cyber Fraud	Permodalan Nasional Berhad	Male
MLI-7	Analyst	Citigroup	Male
MLI-8	KYC Analyst	Bank Muamalat	Female
MLI-9	Manager Compliance	KTRADE securities limited	Male
MLI-10	Senior Manager	SC GBS Sdn Bhd	Male
MLI-11	Research Fellow	UiTM	Male
MLI-12	Senior Manager	Citigroup	Male
MLI-13	Head of Compliance	World Currency Sdn Bhd	Male
MLI-14	Research Fellow	UiTM	Male
MLI-15	Senior Analyst FIU	Standard chartered	Male
MLI-16	Senior Manager	Mizuho Bank Ltd.	Male
MLI-17	Training Support	Prudential Assurance Malaysia Berhad	Male
MLI-18	Risk and Compliance Executive	Rockwills Corporation	Female
MLI-19	FMR Executive Director (Research)	The Central Bank of Bangladesh	Male

## FINDINGS AND DISCUSSIONS

Money laundering and financial crimes are universal issues that not only endanger safety, but also threaten the steadiness, clearness and ability of government mechanisms, thus weakening economic well-being. In any society or financial institutions, money laundering has been considered a critical sagacious offense. Mitigating money laundering risk is very crucial and obligatory for any societies and countries. Thus, the aim of the current study was to discuss factors pertaining money laundering risk and steps that may prevent money laundering problems. In addition, the current study explored further the role of *maqasid al-Shari'ah* in mitigating money laundering to protect people's wealth. The following section presents findings from the interviews with the informants and discussions regarding the way forward in mitigating money laundering risk.

### ***In what ways does money laundering go against the principles of maqasid al-Shari'ah?***

Islamic Shari'ah has forbidden any financial crimes which are against the rules of Shari'ah. In Islam, economic activities may be decreed as *ta'zir* offences, where appropriate judgments may be enforced for committing them as the offences are of a common or public interest. People who are directly and indirectly involved in financial crimes such as money laundering activities should face appropriate judgement based on Shari'ah regulations if it is recognised by Islamic Shari'ah board. In this regard, Allah says in the Quran from surah al-Baqarah verse 188: "And do not eat up your property among yourselves unjustly and do not use it as bribe for the judges, with intent that you may eat up wrongfully and knowingly (even) a little of other people's property. The word unjustly in this verse refers to wealth or property acquired via unlawful ways like robbery, dishonesty, trafficking, fraud and more (Al Hilali & Khan, 1996). Therefore, money laundering is acknowledged as a crucial crime in the financial systems and Islam does not allow any assets which is derived from those sources.

MLI-4 mentioned several principles of *maqasid al-Shari'ah* that go against money laundering:

*Go against justice & maslahah, taking money in inappropriate ways for their personal gains, instead of being paid for the service, job or goods sold. This is against the role of Muslim as khalifah to worship Allah and be accountable to society. Personal gains benefit only certain people with excessive amounts.*

Similarly, MLI-1, MLI-2, and MLI-3 mentioned that as long as money laundering is illegal and relates to corruption activities, even if it is money from illegal activities that people want to legalise according to human law, this action remains to be against the principles of *maqasid Al-Shari'ah*.

### ***What is the Significant Role of Maqasid al-Shari'ah in Mitigating Money Laundering Issues to Protect People's Wealth?***

Islamic law or *maqasid al-Shari'ah* has been very encouraging towards preservation of wealth through numerous mediums, which includes

developing and rising properties, also establishing activities from diverse aspects and social connections. The responsibilities of Islamic *Shari'ah* is to protect the peoples' assets and establish social well-being within the society. In this context, few methods such as *rawaj al- amwal* (fair circulation of wealth), *'adl* (justice), *wuduh* (clarity), *thubut* (proof) and *tanmiyah* (growth) were explained under *maqasid al-Shari'ah* in relation towards money laundering. Islamic scholar Ibn Ashur indicated that this process is important as part of legal procedure to indict the perpetrators. Ethical principles of *maqasid* can prevent money laundering, therefore it is a need for the general public to understand what is illegal in Islam (MLI-2, MLI-3).

Moreover, MLI-4 indicated that:

*Belief in God, all the possessions are temporary, the absolute owner is God, we are here to worship Allah and be kind to others. Therefore, we will concern the others, justice and maslahah in maqasid rather than laundering money for the gains of certain people.*

*Maqasid al-Shari'ah* supported that benefits for the masses should outweigh interest of a particular group of individuals, whom could be committing actions such as money laundering for their self-interests. The principle to treat others with kind and justice should prevail and individualistic perception in deriving wealth for the purpose of sustaining one's life in this world should not take priority than life in the thereafter.

### ***From the Maqasid al-Shari'ah Perspective, What are the Steps that can be Taken to Combat Money Laundering?***

Previously, we have discussed in the literature about the steps that can fight against money laundering such as circulation of wealth (*rawaj*) as the first step to fight against money laundering. This is one of the goals to preserve assets, while money laundering becomes one of the major issues that limits the circulation of money according to Ibn Ashur. Another step for combating money laundering is clarity (*wuduh*), which refers to details on transactions between individuals that should be accurate, explicit and exact. The details should also be distant from any damage and openness to challenges and debates (Ibn Ashur, 1991). Justice (*adl*) is another step



which is connected with the need to have equal social structure, as well as dealing with enactment in banking transactions. According to the Quran, *adl* refers to the idea of truth, integrity, fairness, harmony, stability and simplicity. Therefore, the main objective of this process is to concentrate on the effective and legal ethic of *Shari'ah* social development and individual performance. Proof (*thubut*) and growth (*tanmiyah*) are also steps for combating money laundering.

MLI-2 and MLI-3 pointed out that rules, practices and religious knowledge that are designed under *maqasid* may be taken to combat money laundering. However, MLI-4 mentioned that:

*Preventive measure and assimilating the teaching of maqasid al-Shari'ah are in daily life routine & tasks. We are so influenced by capitalism, as we allow ourselves and people around us to do anything for money. Understanding and practicing maqasid in daily life will allow us to worship Allah and be kind to society. This will limit us from wrongdoings or divert from focusing too much on creating wealth with a shortcut. Many people talks about Islam by limiting to certain religious rituals, hence it become difficult to see how Islam relates to money laundering. Education is important to convey those activities are actually theft.*

Islam and the way of life should be seen as coherent, in which we should live our life in the way that Allah has decreed upon us. We should disengage from activities that could distant us from Allah and cause harm to others – which is closely relating to the concept of '*hablumminallah*' (refers to relation with God/creator) and '*hablumminannas*' (refers to relationship with humans). To combat money laundering, it should be widely propagated that involvement in money laundering activities is deemed as '*haram*' considering the impact it could bring to affected parties.

### **What are the Factors that could Lead your Organisation to be Exposed to Money Laundering Risk?**

Money laundering is the method of depositing illicit finance to commercial banking organisations. In general, powerful and dominant criminals are used to transfer illegal funds to legal financial institutions.

Many scholars have recognised that corruption and anti-money laundering are associated with the banking system, and it is also the most prominent and burning issue. Both Islamic and conventional banking organisations and funding institutions had made major emphasise that risk of money laundering is a core issue, and that they need to ensure that strong policy if developed for the security of people property and their wealth (Teichmann, 2020; World Bank, 2000; Leite et al., 2020). In the meantime, international and national organisations are also attempting simultaneously to find out the solutions to the problem of money laundering and corruption. Foreign agencies such as the World Bank, European Union, OECD and United Nations have been working together to manage and mitigate detrimental effects of money laundering risk, such as the decline in foreign direct investment (FDI), rise in production costs, and ineffective resource allocation that results in unemployment and poverty (OECD, 2014; PACE, 2013; Jamaliah et al., 2013).

MLI 7, MLI 8 and MLI 16 expressed that there are many factors that are facing to be exposed money laundering risk , such as “*Global customers, cross border facilitations, new ambiguous industries/anonymity users and lack of transparency due to data protections as well as lack of digitalizing process*” The exposure of money laundering risk is heightened by the challenges posed by global customers, cross-border transactions, emerging industries with unclear regulations, anonymity features, and the impediments stemming from stringent data protection laws and outdated processes. The complexity of international transactions and the lack of uniform regulations create opportunities for criminals to exploit regulatory gaps, while ambiguous industries and anonymity users offer conduits for hiding illicit funds

There are many key issues that may cause money laundering risk to be imminent in organisations, such as lack of competency and integrity among front desk officers, scammers/criminals intelligence, low in digitalisation and information technologies, loose regulations pertaining CDD implementations, inadequate compliance program, lack of oversight from the board, insufficient resources, manual processes, lax in due diligence, lack of internal control such as segregation of duties, also huge amount of subscription of investment (MLI-12, MLI-13, MLI-15).

MLI-19 pointed out that the three basic steps of the money laundering process are placement, layering and integration. Placement refers to the beginning stage of entry into the legal financial system; where various criminal groups endeavor to place a large amount of illegitimate cash into the legitimate system. They would choose any steps to access financial institutions that are poorly regulated, regardless of their distance before they deposit their illegitimate money. Therefore, it is highly recommended that banks need to check customer identification, source of income, what they do, and traces of unusual transactions if any. This way, money launderers that are trying to launder or clean their illegal money would be stopped as early as during the placement process. If this step succeeded, they would proceed with the layering method or system that places the fund from one place to another. In the end, the perpetrator would be able to launder money within a legitimate system. The final stage is integration, which means after having the legality of the fund or money then they utilise the money in a legal way where they can buy many assets or properties.

MLI-5 indicated that AML policy may have loopholes, and these loopholes are often abused by firms/clients to stop a client's suspicious transactions from being further investigated. Money laundering risk has also made changes towards global customers, cross border facilitations, new ambiguous industries/anonymity users and transparency due to data protection regulations that are set in place. Additionally, risk might also be present if staff in financial institutions are complacent with big sales figures without checking on the funding and source of income. Clients might use one of the products or services provided as a tool for placement. For example, the placement of a huge amount of money/ assets into a trust account which does not commensurate with the earnings (MLI-17 & MLI-18).

***What Kind of Competencies Would be Required to Enhance your Ability in the Area of Risk Management and Compliance Relating to Money Laundering Risk?***

Banking organisations are the most key player in developing accurate structure and strategy to prevent money laundering risk. Data from 24 Iranian banks through a Wolfsburg survey on money laundering risk safety had identified that Iran's banks have adequate AML controls with more staff members who have experience (Slahi & Molla Imani, 2019). The research

also showed that banks with more branches are less likely to establish effective AML controls. In addition, Viritha and Mariappan (2016) notified that bank customers' awareness and acceptance of AML controls can help banking institutions correctly and successfully. Suspicious Transaction Reporting (STR), Cash Transaction Reporting (CTR), documentation, proper record keeping, and enhanced hand diligence should be able to assist banks to detect or clarify illegal money. Moreover, to avoid the linking between bankers and money launderers, or to individual (bankers) or groups who are organising the crimes, every bank should start a whistleblower policy. This means that if any bank officer sees connections between bankers and money launderers, the bank officer should take responsibility to inform the higher authority of the bank so that they will take action on the banker (MLI-19).

Moreover, MLI-12 and MLI-13,MLI 14 mentioned that there are several competencies that can be best practice to enhance the ability and awareness to combat money laundering risk; such as analytical skills, artificial intelligences, machine learning, technical competency to scrutinise and conduct detail assessment competency. Proficiency in AML requirements to thoroughly understand which sections are mandatory or not, competency in preparing the business continuity plan, competency in conducting fast and accurate judgment and decision-making to comply with 24 hours rule requirement of reporting STR once deemed suspicious, and technical competency to provide manual yet efficient risk assessment platform to conduct risk profiling and assessing customers and transactions are also some skills that are important for bankers to acquire in this era of digitalisation. Money laundering risk should have score-based assessment for any transactions that occur within a certain amount of money. Bankers should also be alert and meticulous in every transaction to ensure the source of income is identified (MLI-17).

MLI-5 and MLI-6 pointed out that:

*“Money laundering risk should have score-based assessment towards any transaction that occurs. They should be more open to learning various ways in applying AML/CFT policies across institutions, more real-life cases for training, professional certifications and transfers to multiple regions to learn more to*

*better enhance our skills and understand the various patterns of AML/CFT.”*

MLI 9, MLI10 and MLI 11 identified that competencies would be required to enhance ability in the area of risk management and compliance relating to money laundering risk are *“Proper training sessions from regulators and independent AML experts and consultants. Specialized Certification for AML. specific technology for AML and its proper usage; Analysis skills and knowledge on AML CFT; Ongoing monitoring of the funds”*. *To enhance proficiency in risk management and compliance regarding money laundering, individuals and organizations should prioritize comprehensive training sessions conducted by regulators and independent AML experts, obtaining specialized certifications in AML, mastering the use of specific AML technologies, developing strong analytical skills, and gaining in -depth knowledge of AML and Counter Financing of Terrorism (CFT) measures. Additionally, continuous vigilance through ongoing monitoring of funds is crucial to staying abreast of evolving risks. This multifaceted approach ensures a well-rounded competence in detecting, preventing, and mitigating money laundering risks in the ever-changing financial landscape*

It became clear from the above statement that money laundering risk should have strong assessment according to AML/CFT policies in institutions. In the present-day context, there is a need to improve professional skills and understanding the various patterns of AML/CFT.

Based on the findings above, it can be concluded that the *maqasid al-Shari‘ah* framework emphasizes moral principles rather than a compliance-based approach. While the conventional framework relies on technical mechanisms, investigations, enforcement structures, and punitive measures to deter financial crimes, the *maqasid al-Shari‘ah* approach addresses the root causes of the problem by nurturing moral development and self-awareness. Furthermore, the *maqasid al-Shari‘ah* approach adopts a preventive strategy by promoting moral understanding among individuals to prevent money laundering before it occurs. In contrast, the conventional framework primarily relies on reactive measures, focusing on stopping money laundering after it has taken place. Finally, the *maqasid al-Shari‘ah* approach integrates financial crime prevention with societal well-being,

offering a more holistic and sustainable solution. It effectively bridges the gap between legal compliance and comprehensive religious, moral, and societal development.

## CONCLUSION

The current study has explored how money laundering violates the principles of *maqasid al-Shari'ah* and the measures that can be considered to mitigate money laundering from the *maqasid al-Shari'ah* perspective. It was concluded that money laundering goes against the principles of *Shari'ah* as it eliminates justice and welfare among the people and involves consuming other's property illegally. It goes against the philosophy of Islamic law that people should be responsible for spending their wealth as a vicegerent of Allah on this earth. Along with religious awareness among people, certain aspects of *maqasid al-Shari'ah* contribute to preventing money laundering, which is the requirement of (1) circulation (*rawaj*) of wealth among the people, (2) transparency (*wuduh*) in the transaction, and (3) justice (*'adl*) among the transacting parties. Money laundering could be caused by corruption, lack of competency and integrity among the officers, scamming, weak digitalisation and information technologies, inadequate compliance program, weak internal control and governance, and insufficient resources. In order to mitigate money laundering, awareness of AML controls is required among bankers and their clients. Moreover, several initiatives should be enhanced, such as reporting suspicious transactions and proper documentation. Besides, the development of professional skills of the employees and technologies are crucial to improve the assessment of suspicious transactions.

Therefore, it is suggested that awareness of *maqasid al-Shari'ah* be embedded in educating the clients and employees to combat money laundering. This is crucial as the employees are the important line of defence in scrutinising money laundering risks brought forward by the clients. Moreover, policies should be developed to enhance the circulation of wealth, transparency in transactions and justice among the contracting parties. All parties must be fairly treated, and no one is at the disadvantageous end. For the IFIs, skill and technological development are crucial to providing robust infrastructure to combat money laundering. This infrastructure should

not only be in the form of ‘hard’ infrastructure (systems, software, etc) but also ‘soft’ infrastructure in the form of competencies and awareness of the staff to be the custodians in the fight against money laundering. In line with the imperative of legal compliance and other risk management awareness, employees should be educated and trained on maqasid al-Shariah. To facilitate this, there should be combined efforts from the Shariah scholars, lawyers and information technology specialists. They should collaborate to develop a module and systematic learning approach integrating the Maqasid al-Shariah principles, such as protecting people’s wealth, ensuring transparency, upholding justice, etc., that establishes a robust awareness mechanism and learning culture among the staff.

This study is not free from limitations as it is based on qualitative research where the data was gathered from a limited number of informants. Moreover, the data collected is subjective and it portrays the individual perspectives of the informants. Further studies might be conducted to investigate whether *maqasid al-Shariah* and its awareness affect employees and clients to combat money laundering. In combating money laundering risk, the efforts should come from various parties and understanding money laundering from the perspective of *maqasid al-Shari’ah* could provide a more holistic view overall.

## ACKNOWLEDGEMENTS

The authors would like to express special thanks to the Faculty of Accountancy, University Technology MARA, Cawangan Selangor, Kampus Puncak Alam, Selangor, Malaysia, for providing the necessary assistance for this study.

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